

Message Text

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ACTION STR-04

INFO OCT-01 EUR-12 IO-13 ISO-00 STRE-00 AF-10 ARA-06
EA-07 NEA-10 FEA-01 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 SS-15
ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01 OIC-02
/135 W

-----251123Z 106739 /10

P R 250950Z APR 77
FM USDEL MTN GENEVA
TO SECSTATE WASHDC PRIORITY 2416
INFO AMEMBASSY OTTAWA
USMISSION OECD PARIS

LIMITED OFFICIAL USE SECTION 1 OF 2 MTN GENEVA 3022

ACTION STR

H PASS CODEL

E.O. 11652: NA
TAGS: ETRD, MTN
SUBJ: CONSULTATIONS WITH CANADIAN MTN DELEGATION REGARDING
THEIR DRAFT PROPOSAL ON GOVERNMENT PROCUREMENT

REF: STATE 86798

1. SUMMARY: US MTN DEL MET WITH CANADIAN DEL ON APRIL 21
FOR INITIAL DISCUSSION OF CANADIAN DRAFT ON GOVERNMENT
PROCUREMENT. US OBTAINED CLARIFICATION OF GENERAL
CANADIAN INTENTIONS AND WORDING OF SPECIFIC ASPECTS OF
PROPOSAL. CANADA HAS GIVEN ITS DRAFT TO KEY DEVELOPED
COUNTRY DELEGATIONS AND TO GATT SECRETARIAT, AND PLANS
CONSULTATIONS WITH EC AND NORDICS IN EARLY MAY. CANA-
DIAN DEL LEFT CLEAR IMPRESSION IT INTENDS TO TABLE
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DRAFT IN MTN, WHETHER OR NOT IT RECEIVES GO AHEAD FROM
ALL KEY DELS. END SUMMARY.

2. US (NEWKIRK) OPENED MEETING BY NOTING THAT WE SHARE
CANADA'S DESIRE TO NEGOTIATE A COMPREHENSIVE GOVERN-
MENT PROCUREMENT CODE AND WELCOME ANY EFFORT THAT
WOULD SERVE TO MOVE THE NEGOTIATIONS IN THIS AREA

FORWARD MORE RAPIDLY. HE STATED THAT THE CANADIAN DRAFT WAS CIRCULATED IN WASHINGTON AND THAT INTER-AGENCY DISCUSSIONS OF THE DRAFT HAVE RAISED SEVERAL QUESTIONS OF BOTH A GENERAL AND SPECIFIC NATURE (REF). AFTER RECEIVING CLARIFICATION OF THESE POINTS AND SOME IDEA OF THE DRAFT'S RECEPTION BY OTHER KEY DELEGATIONS, US WILL BE IN BETTER POSITION TO JUDGE USEFULNESS OF THIS DRAFT AS A BASIS FOR MTN NEGOTIATIONS.

3. US ASKED WHETHER CANADA HAS DETERMINED THAT OECD DRAFT IS UNACCEPTABLE TO MTN PARTICIPANTS AS A BASIS FOR NEGOTIATIONS, AND IF SO WHY IT HAS PRESENTED AN ALTERNATIVE PROPOSAL THAT OMITTS CERTAIN CODE ISSUES. CANADA (MEL CLARK) RESPONDED THAT IT IS NOT PREPARED TO USE THE OECD DRAFT CODE IN THE MTN AND THAT IT SUSPECTS MANY NON-OECD COUNTRIES WOULD AGREE. THE CANADIAN PROPOSAL IS NOT INTENDED TO BE COMPLETE; CERTAIN ISSUES HAVE BEEN POSTPONED BECAUSE THEIR NEGOTIATION SHOULD BE FACILITATED AFTER KEY CODE PROVISIONS ARE AGREED. REGARDING THE LACK OF A NATIONAL SECURITY PROVISION, CANADA OPINED THAT IT WOULD BE EASIER TO NEGOTIATE THE ENTITIES QUESTION BEFORE TYING DOWN A TIGHT NATIONAL SECURITY DEFINITION, WHICH CANADA FAVORS. ON THE QUESTION OF INQUIRY RIGHTS, CANADA TOOK NOTE OF THE US SUGGESTION AND SAID ITS OMISSION IN THEIR DRAFT WAS UNINTENTIONAL.

4. REGARDING THE NON-DISCRIMINATION AND NATIONAL TREATMENT SECTION OF THE CANADIAN DRAFT, CLARK OBSERVED THAT LIMITED OFFICIAL USE

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THE OECD DEFINITION OF NON-DISCRIMINATION IS INADEQUATE. THE TERM IMPLIES EQUAL TREATMENT AMONG FOREIGN SUPPLIERS, BUT NOT NECESSARILY BETWEEN FOREIGN AND DOMESTIC SUPPLIERS. THEREFORE, BOTH NON-DISCRIMINATION AND NATIONAL TREATMENT SHOULD BE SPECIFIED. IN RESPONSE TO THE US OBJECTION TO REFERENCE TO GATT ARTICLES 1 AND 3, RATHER THAN SPECIFICATION OF DEFINITIONS WITHIN THE CODE, CANADA EXPRESSED A DISTINCT PREFERENCE FOR DESIGNING THE CODE TO HAVE A STRONG LINK TO THE GATT. CANADA BELIEVES THE HISTORY AND INTERPRETATION OF GATT PROVISIONS ON MTN AND NATIONAL TREATMENT WOULD BENEFIT OPERATION OF GOVERNMENT PROCUREMENT CODE. IN ADDITION, IT WANTS TO MAINTAIN THE BROADER COMPENSATION/RETALIATION ASPECTS OF GATT ARTICLES 22 AND 23 FOR USE IF THE DISPUTE SETTLEMENT MECHANISM OF A GIVEN CODE PROVES INADEQUATE TO DEAL WITH A SPECIFIC PROBLEM. US NOTED DRAWBACK TO TRYING CODE TOO CLOSELY TO GATT; THAT GATT HISTORY AND PRECEDENCE IN OTHER AREAS (E.G. NATIONAL SECURITY) MAY BE UNFAVORABLE TO A TIGHTLY DRAWN CODE. WE ALSO POINTED OUT THAT NON-GATT MTN PARTICI-

PANTS SUCH AS MEXICO COULD RAISE PROBLEMS IN THIS CONNECTION.

5. ON THE QUESTION OF SPECIAL AND DIFFERENTIAL TREATMENT FOR LDC'S, CANADA RECOGNIZED THE PROBLEM OF REFERRING TO S&D IN ITS OBJECTIVES BUT OMITTING SPECIFICS IN THE BODY OF THE PAPER. CANADA'S POSITION IS THAT MAJOR ELEMENTS OF A CODE MUST BE AGREED BEFORE S&D SPECIFICS CAN BE ADDRESSED. IT WOULD, HOWEVER, WELCOME ANY US SUGGESTIONS REGARDING HOW TO HANDLE THIS PROBLEM IN THE MTN DISCUSSIONS. CLARK BELIEVES THAT THE MORE ADVANCED OF THE LCD'S (BRAZIL, MEXICO, AND KOREA) MUST ACCEPT SOME OBLIGATIONS BEFORE THEY CAN BE EXTENDED ALL THE BENEFITS.

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/135 W

-----251105Z 106482 /20

P R 250950Z APR 77
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6. THE CANADIAN DELEGATION PROVIDED THE FOLLOWING INFORMATION ON OTHER ASPECTS OF THEIR DRAFT:

A. THRESHOLD: CANADA HAS NO NUMBER TO SUGGEST, ALTHOUGH IT LIKELY FAVORS SOMETHING BETWEEN 50,000 AND 200,000 DOLLARS. CLARK PLANS TO CONSULT WITH PROVINCIAL AND BUSINESS INTERESTS IN CANADA ON THIS SUBJECT THIS SUMMER.

B. "REASONABLE MEASURES" AS OPPOSED TO "BEST EN-

DEAVORS": CANADA BELIEVES THE TWO TERMS ARE SIMILAR IN INTENT BUT PREFERS THE GATT LANGUAGE (TAKEN FROM ARTICLE 24:12). CLARK NOTED AT THIS POINT THE POSSIBILITY THAT SOME CANADIAN PROVINCIAL PURCHASING AUTHORITIES MAY BE LISTED IN ANNEX B TO THE CANADIAN DRAFT. (ANNEX B WILL LIST THOSE ENTITIES NOT UNDER THE DIRECT CONTROL OF THE CENTRAL GOVERNMENT BUT WHICH WILL BE COVERED BY CODE OBLIGATIONS.) CANADA IS CLEARLY EAGER TO BEGIN NEGOTIATION OF ENTITIES AS SOON AS POSSIBLE.

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C. TECHNICAL SPECIFICATIONS: CANADA ADOPTED LANGUAGE FROM THE DRAFT GATT STANDARDS CODE IN ORDER TO TIGHTEN THE OECD LANGUAGE AND HARMONIZE TERMS. NO CHANGE IN OBLIGATIONS FROM OECD DRAFT IS IMPLIED.

D. DISPUTE SETTLEMENT: CANADA'S PROPOSAL PARALLELS ITS MTN DISPUTE SETTLEMENT PROPOSALS FOR STANDARDS, SUBSIDIES COUNTERVAIL AND SECTORS. CLARK INDICATED A SIMILAR PROPOSAL WOULD BE FORTHCOMING FOR SAFEGUARDS.

7. AT THE END OF THE MEETING, CLARK STATED HE WAS ENCOURAGED BY THE SUBSTANTIVE US REACTION TO THE CANADIAN PROPOSAL. NEWKIRK REITERATED THAT THE PRIMARY US CONCERN IS TO MOVE THE NEGOTIATIONS FORWARD WITH A MINIMUM OF PROCEDURAL COMPLICATIONS. THE REACTIONS OF OTHER KEY DELEGATIONS TO CANADA'S INITIATIVE WILL BE MOST IMPORTANT IN THIS REGARD. IF THE EC DOES NOT WANT TO USE CANADA'S PROPOSAL, THE WORK OF THE SUBGROUP WOULD NOT BE ADVANCED. CANADA RESPONDED THAT THE EC IS NOT COMMITTED TO THE OECD DRAFT IN THE MTN, AND IT IS OPTIMISTIC THAT MTN PARTICIPANTS WILL BUY A NEW INITIATIVE. CANADA WILL HOLD CONSULTATIONS WITH OTHER KEY DELEGATIONS (EC, NORDICS, JAPAN) IN MAY AND THEN WILL DECIDE WHETHER TO TABLE PROPOSAL IN SUBGROUP BEFORE NEXT MEETING. THE CANADIAN DELEGATION IMPLIED IT WILL TABLE THE PROPOSAL AT SOME POINT, WHETHER OR NOT ALL REACTIONS ARE FAVORABLE. WALKER

NOTE BY OCT: SECTION 1 IS BEING SERVICED -- TO FOLLOW.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: GOVERNMENT PROCUREMENT, DIPLOMATIC DISCUSSIONS, RESOLUTIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 25-Apr-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977MTNGE03022
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770143-0428
Format: TEL
From: MTN GENEVA
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1977/newtext/t19770423/aaaaatlh.tel
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Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 STATE 86798
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 22-Dec-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2705905
Secure: OPEN
Status: NATIVE
Subject: CONSULTATIONS WITH CANADIAN MTN DELEGATION REGARDING THEIR DRAFT PROPOSAL ON GOVERNMENT PROCUREMENT
TAGS: ETRD, US, CA, MTN
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/2e35969f-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009